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BEFORE THE
DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.

U.S.-U.K. Alliance Case	))))	Docket OST-2001-11029 - 25

ANSWER OF US AIRWAYS, INC.

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December 14, 2001

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ANSWER OF US AIRWAYS, INC.

In its previous Answer, US Airways, Inc. ("US Airways") reiterated its support for the U.S. Government's longstanding efforts to obtain a liberalized air services agreement with the United Kingdom, our strongest, closest ally and an invaluable partner in the global fight against terrorism. (*See* Answer of US Airways, Inc. (Dockets OST 01-10387 & 10388), dated November 2, 2001.) US Airways further explained that meaningful liberalization of the U.S.-U.K. market could only be achieved if truly competitive access to Heathrow Airport is made available before any U.S.-U.K. alliances receive antitrust immunity. For US Airways, this means commercially viable, competitive slots and facilities at Heathrow from Day One for four daily roundtrips from its transatlantic gateways at Philadelphia, Pittsburgh, and Charlotte.[1]

Now the Department is evaluating antitrust immunity applications for two alliances anchored at Heathrow involving the two largest British and two largest U.S. carriers there. (*See* DOT Order 01-11-10 (consolidating proceedings).) Given this development (the simultaneous consideration of not one, *but two* immunized alliances in the U.S.-U.K. market), it is now more

[1] To the extent that the U.S. Government obtains an agreement that provides for future growth, which US Airways deems critical, US Airways stands ready to take advantage of those opportunities when they become available.

important than ever that a competitive market structure, including commercially viable access to Heathrow for carriers like US Airways, be in place before the alliances are given approval to set schedules, coordinate pricing, and pool profits while shielded from the antitrust laws. Granting such immunity to the two largest U.S. carriers for their respective alliances at Heathrow, without first achieving competitive access at the airport for other U.S. carriers like US Airways, would effectively cut-off any prospect for meaningful price competition in the largest intercontinental aviation market in the world.

Accordingly, US Airways' position is as follows: If and when the U.S. Government reaches a new, liberalized bilateral agreement with the British, and before it grants antitrust immunity to the AA-BA and/or UA-BD alliances, it is incumbent upon the U.S. Government to ensure that US Airways has competitive access from each of its domestic network gateways to Heathrow. Such access necessarily entails commercially viable slots and competitive groundside and vital support facilities, including gates, club rooms, and ticket counters. Since US Airways has no alliance partner with which to trade slots and share airport facilities, it is in the unique position of having to rely solely on the U.S. Government to obtain from the U.K. competitive access to Heathrow. And, split operations between Heathrow and Gatwick are not a commercially viable option for US Airways, a small, new entrant carrier.

Summary of Principal Points

- AA-BA and UA-BD are seeking the Department's approval of two expansive, immunized, and dominant alliances that would effectively control every aspect of airline service in the U.S.-Heathrow and U.S.-London markets, including the coordination of prices. Granting antitrust immunity to these proposed alliances, without first achieving competitive access for other U.S. carriers, would create nothing less than a government-sponsored duopoly at Heathrow. In this regard, the Department should look at the existing duopoly at Chicago O'Hare where United and American purport to compete vigorously. There is no meaningful price competition at O'Hare (there never has been and never will be) as United and American continue to enjoy the benefits of a duopoly.

- It is counterintuitive to conclude that an immunized AA-BA/UA-BD duopoly at Heathrow would benefit competition, unless and until other U.S. carriers have competitive access to Heathrow from their domestic network gateways. Competitive access to Heathrow means not only competitively timed slots but also vital ground and related facilities, including gates, ticket counters, and club rooms.

- Consolidation of AA-BA and UA-BD affords the Department the opportunity to approve both alliances, but requires both to surrender slots and facilities in order to foster price and service competition for the benefit of consumers. Inasmuch as the *two* alliances seeking immunity have enormous holdings of slots and facilities at Heathrow, the Department should now be more readily able to provide new entrant, non-Heathrow carriers like US Airways with the Heathrow access necessary to ensure a competitive market structure.

- US Airways is an independent, stand-alone carrier that has successfully expanded its transatlantic services during the last several years. But US Airways has no alliance partners with which to trade slots and share facilities. US Airways is therefore totally dependent on the U.S. Government to secure a binding commitment from the U.K. that it will have the slots and facilities, including gates, club rooms, and ticket counters, necessary for four daily roundtrip flights from its three gateways hubs to Heathrow. Although US Airways has indicated that it intends to join a global alliance in the near future, the tragic events of September 11, 2001, and the resulting impact the attacks have had on revenues and air traffic, have caused all carriers, including US Airways, to devote all of their immediate resources and attention to addressing the significant operational and financial issues that have arisen in the industry.

- US Airways is uniquely situated to be a strong, growing competitive force in the U.S.-U.K. and U.S.-London markets that would help maximize the benefits of competitive access to Heathrow for transatlantic consumers. US Airways operates the most extensive network of domestic services in the eastern United States, particularly in the Northeast and Mid-Atlantic regions where a significant number of U.S.-U.K. passengers originate or terminate their journeys.

- For American and British consumers to enjoy the substantial, competitive benefits offered by US Airways' pre-eminent network in the eastern United States, US Airways must be able to serve Heathrow nonstop from its network gateway hubs at Philadelphia (2 daily roundtrips), Pittsburgh (1 daily), and Charlotte (1 daily). Each of US Airways' network hubs stands on its own merits, having demonstrated its ability to initiate and sustain transatlantic service. Each of these hubs has substantial local passenger traffic and extensive catchment area feed served by hundreds of daily US Airways/US Airways Express departures. These gateway hubs will provide competitive and convenient service to Heathrow for their respective local metropolitan areas, as well as for a significant number of small, medium, and large behind-gateway communities.

- Competitive access to Heathrow from each of US Airways' three network hubs is a critical part of US Airways' strategy to become a full service network competitor, benefiting competition in international and domestic markets.

I. ANY LIBERALIZED U.S.-U.K. AGREEMENT, AND ANY CORRESPONDING ANTITRUST IMMUNITY FOR THE AA-BA AND/OR UA-BD ALLIANCES, MUST ENSURE A COMPETITIVE AVIATION MARKET STRUCTURE BETWEEN OUR TWO COUNTRIES, INCLUDING COMPETITIVE ACCESS TO HEATHROW AIRPORT FROM DAY ONE.

US Airways continues to support the U.S. Government's efforts to liberalize the air services agreement governing the largest intercontinental aviation market. That being said, however, the U.S. Government must not agree to any so-called "liberalized" U.S.-U.K. agreement or antitrust immunity for the AA-BA and/or UA-BD alliances unless and until a competitive U.S.-U.K. aviation market structure, including competitive access to Heathrow Airport, is firmly in place. Heathrow is undeniably the airport of choice serving London, particularly for business travelers and beyond-London services.[2] Yet, as US Airways pointed out in its Answer in the AA-BA proceeding, and as other parties including the BAA and Airport Coordination Limited have noted, Heathrow is slot- and facility-constrained.[3] Accordingly, absent *de jure* and *de facto* competitive access to Heathrow, any new U.S.-U.K. agreement would be inconsistent with competitive entry at Heathrow for U.S. carriers. Such a condition is not new or unique. Fair and open access ("open skies") in a market has long been an essential

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[2] *See* Press Release (source: British Airways) (Oct. 26, 2001) (noting that "Heathrow, 17 miles west of Central London, is closer to town than Gatwick Airport, located some 40 miles south of London. Central London is easily accessed from Heathrow in a mere 20 minutes using the sleek, ultra-modern Heathrow Express trains . . .").

[3] Despite the overwhelming evidence to the contrary, American and British Airways continue to assert that "[t]here will be sufficient slots available at Heathrow [through alliance partners or self-help mechanisms] to accommodate the increase in transatlantic service" resulting from a liberalized U.S.-U.K. agreement (AA-BA Joint Appl. at 91) and that "[t]here is no need for government-imposed remedies to protect competition" (AA-BA Joint Appl. at 41, 91-101).

prerequisite for the approval of any alliance application for antitrust immunity, including AA-BA. *See* DOT Order 99-7-22, *Order Terminating AA-BA Proceedings*.

What is new and unique is the Department's review of *two* international alliances, *both* of which will be anchored at the same slot- and facility-constrained airport – Heathrow. The proponents of the immunized duopoly will undoubtedly argue that two price-fixing cartels are better than one. British Midland will undoubtedly argue that it should not be required to give up slots so that other U.S. carriers can operate from their domestic network gateways to Heathrow; from the UA-BD perspective, these slots will be more meaningful if operated on transatlantic or short-haul intra-Europe services in coordination with United. American and British Airways will argue that they need a price-fixing alliance to compete with UA-BD and other transatlantic alliances. United will likewise argue that it needs a price-fixing alliance to compete with AA-BA. United will also likely attempt to weave the sophistry that O'Hare, as a hub for two major carriers, is one of the most competitive airports in the world. In so doing, United will undoubtedly resort to defending the oxymoron that there is significant price competition between itself and American at O'Hare. But, consumers know that the American-United duopoly at O'Hare does not result in meaningful price competition for the traveling public.[4]

Two expansive, immunized network alliances involving the two largest British carriers and the two largest American carriers at slot-and facility-constrained Heathrow will not enhance competition. To the contrary, with antitrust immunity, the AA-BA and UA-BD duopoly would more effectively lock up Heathrow (as a two-alliance hub) – at the expense of competition and the traveling public.

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[4] United may remind the Department that recent legislation eliminates the slot regime at O'Hare next year. But United and American have been able to establish such impregnable positions at O'Hare under the slot regime that elimination of the slot rules will not result in meaningful new entry and price competition at O'Hare.

Therefore, it is the considered judgment of US Airways that there is no way whatsoever that the U.S. Government can approve the proposed AA-BA and/or UA-BD alliances *and* effectuate a truly meaningful, liberalized aviation market *without* providing for vital, competitive access to Heathrow. US Airways further believes that the U.S. Government clearly understands that US Airways –a new entrant, non-alliance carrier – could not obtain the requisite number of slots or facilities, such as gates, club rooms, and ticket counters, through self-help or alliance partners to commence Heathrow service from its three domestic hub airports.

In light of US Airways' reliance on the U.S. Government to secure from the U.K. the necessary slots and facilities to operate four daily flights to Heathrow from its three gateway hubs, consolidation of AA-BA and UA-BD gives the Department a critical opportunity to approve both alliances conditioned on their surrendering such competitive slots and facilities at Heathrow. Inasmuch as the *two* proposed alliances have large holdings at Heathrow from which a remedy could be fashioned, the Department should now be more readily able to provide new entrant, non-Heathrow carriers like US Airways with competitive access. Indeed, the eight daily Heathrow slots and related facilities required by US Airways are certainly reasonable given the vast Heathrow holdings of AA-BA and UA-BD. As the Department acknowledged in its consolidation order, "both applications will require us to examine existing and potential levels of competition on routes between the United States and . . . Heathrow . . . , and the availability of facilities for new or expanded service by U.S. airlines and other competitors at those airports." (DOT Order 01-11-10, at 3.) By providing that access, the Department will take a critical step to ensure a competitive U.S.-U.K. market structure under any new, liberalized agreement, thereby allowing US Airways and other U.S. carriers to be forceful competitors for the benefit of the traveling public, the communities they serve, and their employees.

II. SERVICE TO HEATHROW BY US AIRWAYS FROM ITS THREE PRINCIPAL NETWORK HUBS IN THE EASTERN UNITED STATES IS ABSOLUTELY CRITICAL TO ESTABLISHING AND MAINTAINING A COMPETITIVE MARKET STRUCTURE WITH IMMUNIZED U.S.-U.K. ALLIANCES.

US Airways is ready and able to offer passengers convenient and competitive service to Heathrow – London's airport of choice – from its three network hubs, should such access be made available. Indeed, with the most extensive domestic system in the eastern United States, particularly in the Northeast and Mid-Atlantic regions where a significant number of U.S.-U.K. passengers originate or terminate their journeys, US Airways is uniquely positioned to be a strong and growing competitive force that would help maximize the benefits of full and open access to Heathrow. The comprehensive and interconnected service provided by US Airways' three-gateway network will help ensure a competitive market presence that is in the public interest and unsurpassed by any other U.S. carrier. US Airways' entry into the Heathrow market is therefore a critical element of any solution to the restrictive and anti-competitive U.S.-U.K. market structure.

For American and British consumers to enjoy the substantial, competitive benefits offered by US Airways' pre-eminent network in the eastern United States, US Airways must be able to serve Heathrow nonstop from its network gateway hubs at Philadelphia (2 daily roundtrips), Pittsburgh (1 daily), and Charlotte (1 daily) -- each of which plays a critical, complementary role in the airline's network. Because US Airways has a major base of operations and market presence at each of these gateway cities, it is well positioned to provide effective competition for local traffic to London. Indeed, each of US Airways' network hubs offers substantial competitive benefits, having demonstrated its ability to initiate and sustain transatlantic service. Moreover, the hundreds of daily departures operated by US Airways and US Airways Express at Philadelphia, Pittsburgh, and Charlotte will enable US Airways to compete vigorously for single-carrier, behind-gateway traffic from small, medium, and large communities throughout the eastern United States.

> **Philadelphia**. US Airways and US Airways Express have more than 300 daily departures at Philadelphia, one of the largest metropolitan areas in the country. US Airways' twice daily Philadelphia-Heathrow service will connect dozens of behind-Philadelphia communities to Heathrow, with improved elapsed times for many of them. Philadelphia will also provide consumers with an alternative to the congested New York City gateways. Furthermore, these two flights will connect to service for a number of beyond-Heathrow cities. Importantly, US Airways' two daily Heathrow flights will also provide vigorous U.S.-flag competition to British Airways' current twice daily monopoly service between Philadelphia and Heathrow.
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> **Pittsburgh.** US Airways' Pittsburgh network hub serves the large local catchment area of western Pennsylvania, northern West Virginia, and eastern Ohio, as well as the dozens of communities connected to Pittsburgh by US Airways' and US Airways Express' more than 400 daily departures. Specifically, numerous behind-Pittsburgh communities will have convenient one-stop, single-carrier service on US Airways to Heathrow with this proposed service. Some of these communities will not have convenient connections on US Airways to Heathrow through Philadelphia. Beyond London, the Pittsburgh-Heathrow flight will connect to service for a number of beyond-Heathrow cities.
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> **Charlotte.** US Airways operates more than 400 daily departures at Charlotte, an expanding metropolitan area and a major financial, commercial center in the southeastern United States. US Airways' Charlotte network will link dozens of communities to its Heathrow service. Drawing upon this network, US Airways will provide a critical competitive alternative to AA-BA in the Carolinas, where BA had been operating a daily Charlotte-London flight (and now operates one-stop Charlotte-Heathrow service) and AA operates daily Raleigh/Durham-London service. US Airways' Charlotte-Heathrow flight will also connect to service for a number of beyond-Heathrow cities.[5]

Notably, US Airways will provide these Heathrow services from major hub cities where U.S. carrier service is now restricted to London's Gatwick Airport. As indicated, it will also provide head-to-head competition with British Airways' nonstop Philadelphia and one-stop, single-plane Charlotte services to Heathrow. These four daily roundtrips to Heathrow from three key network cities (Philadelphia, Charlotte, and Pittsburgh) are critical to sustaining the necessary presence in

5 Although US Airways (like most major carriers) has reduced services throughout its system, its Charlotte, Pittsburgh, and Philadelphia network hubs remain intact.

the U.S.-London market for US Airways to be a forceful competitor against the proposed two-alliance duopoly anchored at Heathrow.

These Heathrow services are also an important part of US Airways' long-term, international strategy, particularly in light of the fact that US Airways does not have any alliance partners. In that regard, US Airways does not oppose alliances. However, US Airways is an independent, stand-alone carrier that has been expanding its transatlantic services during the last several years. It has no transatlantic alliance partner with which it can share slots and facilities. Accordingly, any new liberalized U.S.-U.K. agreement or antitrust immunity for the AA-BA and UA-BD alliances must be conditioned on providing the Heathrow access sought by US Airways. Compared to the slot demands of other U.S.-flag carriers[6] and the extensive Heathrow slot holdings of the two proposed alliances, US Airways' request for eight daily Heathrow slots is a modest but essential minimum that will enable a new entrant to establish a critical market presence at Heathrow from Day One of any liberalized U.S.-U.K. aviation market.

III. COMPETITIVE ACCESS TO HEATHROW MEANS COMMERCIALLY VIABLE SLOTS FREE-OF-CHARGE AND GROUND FACILITIES, INCLUDING GATES, CLUB ROOMS, AND TICKET COUNTERS.

The public benefits of US Airways' strengths can only be fully realized if US Airways can serve London's airport of choice — Heathrow – from each of its principal network hubs. Given the well-known slot and facility constraints at Heathrow, the mere authority to serve Heathrow does not necessarily mean that a carrier can, in fact, operate at Heathrow. For that reason, the U.S. Government must ensure that US Airways has competitive access to Heathrow

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[6] Continental Airlines has indicated that it requires at least 140 weekly slots at Heathrow, in addition to retaining its services at Gatwick and Stansted airports. (Motion to Dismiss of Continental Airlines, at 3 & n.4.) Continental has since announced the discontinuation of its Stansted service. Delta Air Lines has likewise stated that it would require Heathrow slots for at least 11 daily roundtrips (154 weekly slots). (Answer of Delta Air Lines (Nov. 2, 2001) at 24-25.) By contrast, US Airways is seeking only 56 weekly slots (4 daily roundtrips).

in addition to the requisite, underlying authority. This requires that sufficient take-off and landing slots (eight daily slots at the same time each day) be provided free-of-charge from Day One at times that allow US Airways to connect efficiently with its incoming and outgoing transatlantic banks at Philadelphia, Pittsburgh, and Charlotte. Equally important, related ground support facilities at Heathrow, including gates, club rooms, and ticket counters, must likewise be allocated to US Airways before immunity is granted to the AA-BA and/or UA-BD alliances.

These pre-conditions are vitally important given that British Airways and American Airlines continue to assert that even unaffiliated carriers like US Airways can obtain precious Heathrow slots through the normal self-help mechanisms like the slot coordination process. (AA-BA Joint Appl. at 97-98.). Yet, US Airways' well-documented difficulties in initiating service from Charlotte to London's second-choice and less popular Gatwick Airport demonstrate the contrary. US Airways was forced to postpone for more than a year its Charlotte-Gatwick service because it was unable to obtain economically viable slots to support one daily roundtrip. The lesson is clear. Any remedy in this case must expressly guarantee, in advance, specific, appropriately-timed Heathrow arrival and departure slots and related ground facilities.

IV. SPLIT OPERATIONS BETWEEN HEATHROW AND GATWICK ARE NOT A VIABLE OPTION FOR US AIRWAYS.

US Airways must be able to concentrate all of its daily flights at Heathrow to establish the market presence necessary to compete effectively with the entrenched market power of the two proposed immunized alliances. If US Airways were required to fly to two different airports (for example, Gatwick and Heathrow), it would incur substantial personnel, maintenance, and marketing costs at two separate facilities preventing it from efficiently competing with the enormous market power advantages of the proposed duopoly and other, more established transatlantic carriers. Simply put, split operations between two London airports are not a commercially viable option for US Airways.

Conclusion

US Airways is committed to becoming a forceful competitor in the U.S.-U.K. market, and that commitment necessarily entails service to London's Heathrow Airport. US Airways submits that the single most important step that the Department can take to create and preserve a truly competitive market structure under a liberalized U.S.-U.K. aviation agreement with immunized alliances for AA-BA and UA-BD is to ensure that from Day One, US Airways is able to compete effectively to Heathrow from its three network hubs in the eastern United States.

Respectfully submitted,

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Certificate of Service

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